

REMARKS

Claims 1-33 stand in this application. Claims 1-3, 7, 15, 18-23, 30, 32, and 33 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested

At page 2, paragraph 1 of the Office Action claim 18 was objected to. Applicants respectfully traverse the rejection based on the above amendment and removal of this rejection is respectfully requested. Applicants further submit that the above amendments are made to overcome an objection and are not made to overcome the cited reference[s]. Accordingly, these amendments should not be construed in a limiting manner.

At page 2, paragraph 2 of the Office Action claims 1-4, 6-9, 11, 13-16, 18, 20-24, and 28-33 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent Number (USPN) 5,940,504 to Griswold ("Griswold"). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicants respectfully submit that to anticipate a claim under 35 U.S.C. § 102(b), the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicants submit that the Griswold reference fails to teach each and every element recited in claims 1-4, 6-9, 11, 13-16, 18, 20-24, and 28-33 and thus they define over the Griswold reference. For example, with respect to claim 1, the Griswold reference fails to teach, among other things, the following language:

sending a time interval to said monitored program

The Office Action does not state where the Griswold reference discloses this claim language. Rather, the Office Action states that, at col. 4, lines 23-25, the Griswold reference discloses that “[a]fter a request datagram has been sent out, a user may be permitted to use the licensed product for a limited duration.” In contrast, claim 1 recites “sending a time interval to said monitored program.” Furthermore, Applicants submit that sending a time interval to the monitored program is different from permitting the user to use a licensed product for a limited duration. There is no disclosure in the Griswold reference that the “time interval” is actually sent to the monitored program. Rather, at col. 6, lines 17-18, the Griswold reference discloses that a “[s]end interval 17 specifies a time interval between each transmission of a new datagram 3 from the licensee to the licensor.” This merely defines a time interval as the time between transmissions of datagrams between the licensee and the licensor, but fails to disclose that the “time interval” is sent to the monitored program, as recited in amended claim 1. Consequently, the Griswold reference fails to disclose all the elements or features of the claimed subject matter. Accordingly, Applicants respectfully request removal of the anticipation rejection with respect to claim 1. Furthermore, Applicants respectfully request withdrawal of the anticipation rejection with respect to claims 2-11, which depend from claim 1 and, therefore, contain additional features that further distinguish these claims from the Griswold reference.

Claim 12 was not addressed in the Office Action. Applicants therefore respectfully request allowance of claim 12. Claims 13 and 14 depend from independent claim 12, and therefore Applicants submit that claims 13 and 14 also should be in

condition for allowance. Therefore, Applicants respectfully request withdrawal of the anticipation rejection with respect to claims 13 and 14.

Claims 15, 20, 22, 30, and 32 have been amended to recite features similar to those recited in claim 1. Therefore, for reasons analogous to those presented with respect to claim 1, Applicants respectfully submit that claims 15, 20, 22, 30, and 32, and all claims directly or indirectly depending therefrom, are not anticipated and are patentable over the Griswold reference. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 15, 20, 22, 30, and 32.

Applicants submit that, for at least the reasons given above, claims 1-4, 6-9, 11, 13-16, 18, 20-24, and 28-33 are patentable over the cited reference. Accordingly, removal of the anticipation rejection with respect to claims 1-4, 6-9, 11, 13-16, 18, 20-24, and 28-33 is respectfully requested.

At page 4, paragraph 3 of the Office Action claims 5 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Griswold in view of USPN 5,291,596 to Mita ("Mita"); claims 9, 10, 25, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Griswold in view of U.S. Patent Application Number 2001/0052013 to Munguia; and claims 12 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Griswold in view of USPN 6,141,652 to Reeder ("Reeder"). Applicants respectfully traverse each one of these rejections, and requests reconsideration and withdrawal of each of the obviousness rejections.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation,

either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. See MPEP § 2143.03, for example. Applicants respectfully submit that the Office Action has not established a *prima facie* case of obviousness because the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 5, 9, 10, 12, 17, and 25-27. Therefore these claims define over the Griswold and the Mita, Munguia, and the Reeder references whether taken alone or in combination.

Applicants submit that claim 5 is non-obvious and patentable over Griswold in view of Mita because claim 5 depends from claim 1, which defines over the Griswold reference as discussed above. The combination of the Mita reference and the Griswold reference fails to overcome the shortcomings of the Griswold reference taken alone. Therefore, Applicants submit that the Griswold reference and the Mita reference, whether taken alone or in combination, fail to disclose each and every element recited in claim 5 and respectfully request the withdrawal of the obviousness rejection with respect thereto.

Applicants submit that claim 17 is non-obvious and patentable over Griswold in view of Mita because claim 17 depends from claim 15, which defines over the Griswold

reference for reasons analogous to those presented with respect to claim 1, as discussed above. The combination of the Mita reference and the Griswold reference fails to overcome the shortcomings of the Griswold reference taken alone. Therefore, Applicants submit that the Griswold reference and the Mita reference, whether taken alone or in combination, fail to disclose each and every element recited in claim 17 and respectfully request the withdrawal of the obviousness rejection with respect thereto.

Applicants submit that claims 9 and 10 are non-obvious and patentable over Griswold in view of Munguia because claims 9 and 10 depend from claim 1, which defines over the Griswold reference as discussed above. The combination of the Munguia reference and the Griswold reference fails to overcome the shortcomings of the Griswold reference taken alone. Therefore, Applicants submit that the Griswold reference and the Munguia reference, whether taken alone or in combination, fail to disclose each and every element recited in claims 9 and 10 and respectfully request the withdrawal of the obviousness rejection with respect thereto.

Applicants submit that claims 25 and 26 are non-obvious and patentable over Griswold in view of Munguia because claims 25 and 26 depend from claim 22, which defines over the Griswold reference for reasons analogous to those presented with respect to claim 1, as discussed above. The combination of the Munguia reference and the Griswold reference fails to overcome the shortcomings of the Griswold reference taken alone. Therefore, Applicants submit that the Griswold reference and the Munguia reference, whether taken alone or in combination, fail to disclose each and every element recited in claims 25 and 26 and respectfully request the withdrawal of the obviousness rejection with respect thereto.

Applicants submit that claims 12 and 27 are non-obvious and patentable over Griswold in view of Reeder, because these references, whether taken alone or in combination, fail to disclose each and every element recited in claims 12 and 27 and respectfully request the withdrawal of the obviousness rejection with respect thereto. For example, the Office Action states that, at col. 14, line 54, the Reeder reference discloses “displaying the amount of usage to a user.” Applicants respectfully submit that at col. 14, lines 53-54, the Reeder reference discloses “display totalized charges to the user, or to print them out, on request via the input device.” This is different, however, from the language recited in claim 12:

reporting said usage time to a user corresponding to said monitored program.

Reporting “usage time” of a monitored program to a user corresponding to the monitored program is significantly different from merely displaying “totalized charges” to a user indicating the total amount due for a bill. Therefore, claim 12 is non-obvious and patentable over Griswold in view of Reeder, whether taken alone or in combination.

Claim 27 recites features similar to those in claim 12. Therefore, for reasons analogous to those presented above with respect to claim 12, claim 27 also is non-obvious and patentable over Griswold in view of Reeder, whether taken alone or in combination.

Applicants submit that, for at least the reasons given above, claims 5, 9, 10, 12, 17, and 25-27 are patentable and non-obvious in view of the cited references, whether

taken alone or in combination. Accordingly, removal of the obviousness rejection with respect to claims 5, 9, 10, 12, 17, and 25-27 is respectfully requested.

For at least the above reasons, Applicants submit that claims 1-33 recite novel features not shown by the cited references. Further, Applicants submit that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicants submit that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicants do not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicants hereby reserve the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-33 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

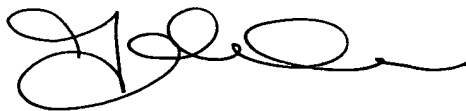
Appl. No. 09/804,673
Response Dated November 4, 2004
Reply to Office Action of August 4, 2004

The Examiner is invited to contact the undersigned at 724-933-3387 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 02-2666.


Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP



John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to:
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Tamara Simpson Date

Dated: November 4, 2004

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